

SENATE BILL No. 182

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-3-2-14; IC 35-46-1-11.8.

Synopsis: Tobacco merchandising. Prohibits cigarette manufacturers from requiring retailers to engage in certain display and advertising practices or other practices concerning another cigarette manufacturer as a condition to participating in marketing promotions. Requires certain retailers to provide employee assistance to purchase individual packages of cigarettes.

Effective: July 1, 2004.

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January 6, 2004, read first time and referred to Committee on Commerce and Consumer Affairs.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 182

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations and consumer sales and credit.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-3-2-14 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 14. (a) A cigarette retailer may enter into an**
4 **agreement and participate in a cigarette manufacturer's**
5 **merchandising, advertising, display, or consumer discount**
6 **promotional program in which the retailer:**

7 (1) **provides cigarette merchandising, shelf space, advertising,**
8 **stocking, or display space to the manufacturer;**

9 (2) **conducts the manufacturer's consumer promotion and**
10 **discount programs and provides the promotions and**
11 **discounts to customers; and**

12 (3) **is paid or compensated by the manufacturer for**
13 **performing the manufacturer's consumer promotion and**
14 **discount program.**

15 (b) **Subject to subsection (c), a cigarette manufacturer may do**
16 **the following:**

17 (1) **Enter into an agreement with a retailer concerning the**

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1 manufacturer's consumer promotion and discount program,
 2 including defining the amount of merchandising, shelf space,
 3 advertising, stocking, or display space provided to the
 4 manufacturer. However, the agreement may not require the
 5 retailer to increase the amount of merchandising, shelf space,
 6 advertising, stocking, or display space to the manufacturer
 7 during the term of the promotion or discount program.

8 (2) Provide a retailer with a monetary payment or other
 9 compensation for participating in the manufacturer's
 10 consumer promotion and discount program.

11 (3) Provide consumer promotions and discounts to a retailer
 12 for the retailer to furnish to consumers.

13 (c) A cigarette manufacturer may not do the following:

14 (1) Prevent, restrict, or limit a retailer from stocking,
 15 displaying, advertising, entering into an agreement, or
 16 participating in a program of another manufacturer.

17 (2) Prevent, restrict, or limit a retailer from determining the
 18 size, contents, or location of the space that the retailer uses to
 19 stock, display, promote, or advertise cigarettes.

20 (3) Require or prevent a retailer from raising, reducing, or
 21 retaining the price on another manufacturer's products.

22 SECTION 2. IC 35-46-1-11.8 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2004]: Sec. 11.8. (a) This section does not
 25 apply to the following:

26 (1) A retail establishment that derives at least seventy-five
 27 percent (75%) of the establishment's revenue from tobacco
 28 and tobacco related products.

29 (2) A retail establishment that prohibits an individual who is
 30 less than eighteen (18) years of age from entering the
 31 establishment.

32 (b) A retail establishment may not offer for sale or display
 33 individual packages of cigarettes that allow a customer access to
 34 the cigarettes without the assistance of an employee of the retail
 35 establishment.

36 (c) A person who violates this section commits a Class C
 37 infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for
 38 an infraction committed under this section must be imposed as
 39 follows:

40 (1) If the person has not been cited for a violation of this
 41 section in the previous ninety (90) days, a civil penalty of fifty
 42 dollars (\$50).

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- 1 (2) If the person has had one (1) violation of this section in the
2 previous ninety (90) days, a civil penalty of one hundred
3 dollars (\$100).
4 (3) If the person has had two (2) violations of this section in
5 the previous ninety (90) days, a civil penalty of two hundred
6 fifty dollars (\$250).
7 (4) If the person has had at least three (3) violations of this
8 section in the previous ninety (90) days, a civil penalty of five
9 hundred dollars (\$500).
10 (d) A person may not be cited for a violation of this section more
11 than once every twenty-four (24) hours.

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